

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Admission Agreements in Residential Care Facilities for the Elderly (RCFE)

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held February 3, 2016, as follows:

Office Building # 8
744 P St. Room 105
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on February 3, 2016.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

CONTACT: Office of Regulations Development
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CHAPTERS

Title 22, Chapters 87100, 87400, 87500, 87700

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current RCFE regulations include specific requirements for admission agreements between RCFE licensees and residents, such as services made available, payment provisions, modification conditions, refund conditions and other policies and procedures that pertain to the admission agreement.

These proposed regulations will enact the following specified legislations: (1) Senate Bill (SB) 1898, Statute of 2002; (2) SB 211, Statute of 2003; (3) SB 540, Statute of 2003; (4) SB 1662, Statute of 2004; (5) Assembly Bill (AB) 179, Statute of 2005; (6) SB 141, Statute of 2005; (7) AB 949, Statute of 2007; (8) SB 781, Statute of 2009; and (9) AB 261, Statute of 2013.

SB 1898 added requirements regarding fees, deposits and refund conditions.

SB 211 added admission agreement requirements pertaining to format, descriptions and conditions for provisions, prohibitions, billing, payment, refund policies, termination conditions and rate increases.

SB 540 added a requirement that RCFE licensees provide, under specified circumstances, written information about health-related programs and services prior to admission and specified the manner in which it is to be provided to the prospective resident.

SB 1662 required RCFE licensees to provide notice to a resident of a rate increase and specified what must be contained in the notice.

AB 179 required the personal rights form attached to admission agreements to include information on the reporting of suspected/known elder and dependent adult abuse. This bill also required that the form included information on how to contact the Long-Term Care Ombudsman.

SB 141 required admission agreements to include information regarding preadmission fee refunds, including the conditions, timeframes and amounts.

AB 949 required admission agreements to include an explanation of the RCFE licensee's responsibilities regarding preadmission fee refunds, relocations, closures and evictions. This bill also required admission agreements to state licensee responsibilities and resident rights when a facility evicts a resident.

SB 781 required a RCFE licensee who sends an eviction notice to a resident to include in the notice to quit the reasons for the eviction, with specific facts regarding the date, place, witnesses and circumstances concerning the reasons.

AB 261 prohibited a RCFE from requiring advance notice to terminate an admission agreement upon the death of a resident.

Admission agreements specify the type of care that a resident will receive during their stay at a RCFE. Therefore, these agreements are an important consumer protection for RCFE residents and prospective residents.

These regulations will expand requirements for admission agreements, increase understanding of the roles and responsibilities of residents and licensees and empower residents and prospective residents with the knowledge they need to make informed decisions about their care.

During the process of developing these regulations, CDSS has conducted a search of any similar regulations on this topic (Admission Agreement, RCFE) and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

Anticipated Benefits

This regulatory action will benefit families in California in need of services provided at RCFEs, as these amendments provide them with information necessary to make informed choices related to basic services, rate increases and fees as provided in the Admission Agreement and clarifies provisions that are prohibited.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: No fiscal impact exists.
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact exists.
4. Federal Funding to State Agencies: No fiscal impact exists.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The changes reflected in these regulations codify statutes that have been in effect as far back as 2002, with the majority of bills being passed between 2002 and 2009. The most recent bill included in this package was passed in 2013 and reflects a single change in the regulations proposed. The CDSS has not received any facts, evidence, documents, testimony or other evidence to indicate there has been

any significant, statewide adverse economic impact on business related to these laws. As such, CDSS has made an initial determination that the proposed action will not have significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any potential cost impacts on representative private persons or businesses as a result of the proposed action.

SMALL BUSINESS IMPACT STATEMENT

These regulations will affect RCFEs that are operating as small businesses. There are no discernable costs with these regulations.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The changes reflected in these regulations codify statutes that have been in effect as far back as 2002, with the majority of bills being passed between 2002 and 2009. The most recent bill included in this package was passed in 2013 and reflects a single change in the regulations proposed. As such, CDSS has determined that the adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. These regulations benefit the health and welfare of California resident by providing stronger consumer protections to the health and safety of California residents residing in RCFEs, improving the state environment. These regulations have no direct impact on worker safety.

STATEMENT OF EFFECT ON HOUSING COSTS

The CDSS is not aware of any effect the proposed regulatory action will have on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

These regulations are developed in response to legislation – including SB 1898 (Chapter 557, Statutes of 2002); SB 211 (Chapter 409, Statutes of 2003); SB 540 (Chapter 322, Statutes of 2003); SB 1662 (Chapter 401, Statutes of 2004); SB 141 (Chapter 250, Statutes of 2005); SB 179 (Chapter 456, Statutes of 2005); AB 949 (Chapter 686, Statutes of 2007); SB 781 (Chapter 617, Statutes of 2009); and AB 261 (Chapter 290, Statutes of 2013), which amended requirements related to admission agreements.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose

for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

Section 1569 of the Health and Safety (H&S) Code grants CDSS the authority to develop the regulations and Sections 1569.2, 1569.312, 1569.628, 1569.651, 1569.652, 1569.655, 1569.657, 1569.682, 1569.683, 1569.880, 1569.881, 1569.882, 1569.883, 1569.884, 1569.885, 1569.886, 1569.887, 1569.888 and 1569.889 of the H&S Code are being referenced to make the regulations more specific.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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